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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/512,078	11/05/2004	Fabio Franceschi	023349-00298	3042

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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

EXAMINER

CHIVUKULA, SURAJ

ART UNIT	PAPER NUMBER
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4174

NOTIFICATION DATE	DELIVERY MODE
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10/18/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DCIPDocket@arentfox.com
IPMatters@arentfox.com
Patent_Mail@arentfox.com

Office Action Summary	Application No. 10/512,078	Applicant(s) FRANCESCHI, FABIO	
	Examiner Suraj Chivukula	Art Unit 1709	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>11/5/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The references listed in the Information Disclosure Statements filed on November 5, 2004 has been considered by the examiner (see attached PTO-326 form).

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

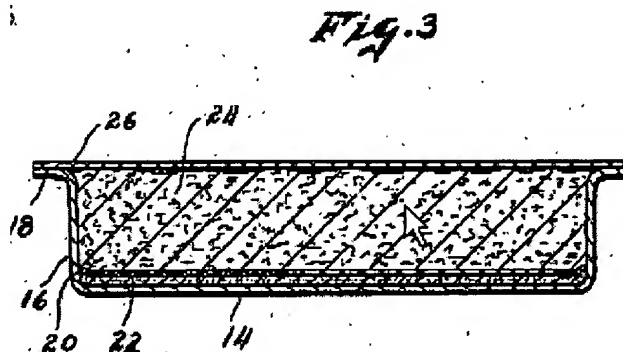
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 5-6, and 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Goros (U.S. Patent 2,968,560; hereinafter Goros).

Regarding claim 1, Goros discloses a first container made of flexible material (column 2 lines 9-14) containing an infusion substance (Figure 3 #24, column 2 lines

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19-20) and a second compartment (Figure 3 #22) attached to the first container made of a rigid material and containing a powdered soluble substance (column 2 lines 17-18).



5. Regarding claim 2, Goros discloses attaching the first and second containers by heat sealing (column 2 line 52).

6. Regarding claims 5 and 11, Goros discloses a sheet of protective material over the capsule (Figure 3 #26, column 2 lines 23-24).

7. Regarding claims 6 and 14, Goros discloses a flexible container comprising a filter paper (Figure 3 #20, column 2 lines 30-33).

8. Regarding claim 12, Goros discloses the infusion substance as a powdered coffee (column 2 line 19-20).

9. Regarding claim 13, Goros discloses the soluble substance as a powdered milk or creamer soluble substance (column 2 lines 21-23).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 3-4, 7-10, and 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goros in view of Nelsen (U.S. Patent 3,199,437; hereinafter Nelsen).

Regarding claims 3-4, Goros discloses attaching the first and second containers by heat sealing (column 2 line 52).

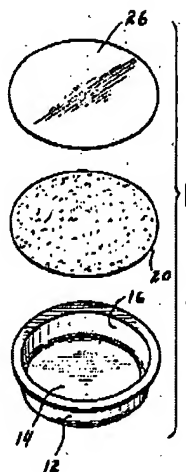
12. Regarding claims 7, and 15-16, Goros discloses a rigid second container made of a food safe material (column 2 lines 9-14).

13. Regarding claims 8-9 and 17-20, Goros discloses a frangible bottom surface (column 4 line 8).

14. Regarding claims 10 and 21, Goros discloses a rigid container made of a food

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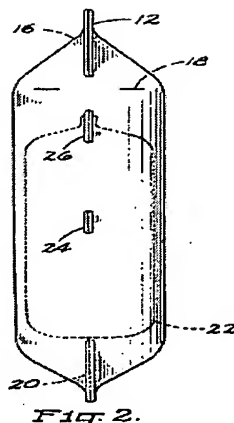
safe material (column 2 lines 9-12) with the filter paper having an annular outer edge fixed to a matching annular protuberance on the plastic cartridge at the top of the cartridge itself (Figure 2 #20).



Goros Figure 2

It should be noticed that Goros fails to disclose attaching the first and second containers by gluing or ultrasound sealing, the food safe material as plastic, and a bottom surface with a hole covered by a seal that constitutes a portion of the bottom surface.

15. Nelsen discloses a rigid container made of a food safe plastic material (column 1 lines 67-68) with a bottom surface with a hole covered by a seal (Figure 2 #20) constituting a portion of the bottom surface (column 2 line 16).



Nelsen and Goros fail to disclose attaching the first and second containers by a sealing means such as gluing or ultrasound sealing. Examiner notes that it is well known in the art that closing of a package is typically done by sealing or gluing. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a package closing means such as gluing or ultrasound sealing, if so desired.

Both Goros and Nelsen are related to infusion packages. One wishing to solve the problem of having the package made of a plastic material with a bottom surface containing a hole covered by a seal would combine references. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the infusion package disclosed by Goros to be made of a plastic material with a bottom seal, as disclosed by Nelsen.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suraj Chivukula whose telephone number is (571) 270-


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3471. The examiner can normally be reached on M-F 7:30am-5:00pm EST (1st Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Lawrence Tarazano can be reached on (571) 272-1515. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Suraj Chivukula
Examiner
Art Unit 4174


Gwendolyn Blackwell
Primary Examiner